Executive Summary – Enforcement Matter – Case No. 47838 Gibson Real Estate, LLC RN103732483 Docket No. 2013-1945-PST-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

PST

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Gibson Real Estate, LLC, 5511 Dietrich Road, San Antonio, Bexar County

Type of Operation:

Fleet refueling facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: January 31, 2014

Comments Received: No

Penalty Information

Total Penalty Assessed: \$11,382

Amount Deferred for Expedited Settlement: \$2,276 Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$9,106 **Total Due to General Revenue:** \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified Site/RN - Unclassified

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 47838 Gibson Real Estate, LLC RN103732483 Docket No. 2013-1945-PST-E

Investigation Information

Complaint Date(s): N/A **Complaint Information**: N/A

Date(s) of Investigation: October 9, 2012 Date(s) of NOE(s): September 11, 2013

Violation Information

- 1. Failed to renew a previously issued under ground storage tank ("UST") delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date. Specifically, the delivery certificate expired on September 30, 2009 [30 Tex. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii)].
- 2. Failed to make available to a common carrier a valid, current UST delivery certificate before accepting delivery of a regulated substance into the USTs. Specifically, one fuel delivery was accepted without a valid delivery certificate [30 Tex. Admin. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a)].
- 3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring) [30 Tex. Admin. Code § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1)].
- 4. Failed to provide release detection for the pressurized piping associated with the UST system. Specifically, the annual piping tightness and line leak detector tests had not been conducted [30 Tex. ADMIN. CODE § 334.50(b)(2) and Tex. WATER CODE § 26.3475(a)].
- 5. Failed to maintain UST records and make them immediately available for inspection upon request by TCEQ personnel [30 Tex. ADMIN. CODE § 334.10(b)(1)(B)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

- a. Immediately, cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form.
- b. Within 30 days:
- i. Implement a release detection method for the USTs and the piping associated with the UST system at the Facility; and

Executive Summary – Enforcement Matter – Case No. 47838 Gibson Real Estate, LLC RN103732483 Docket No. 2013-1945-PST-E

- ii. Begin maintaining UST records and make them immediately available for inspection upon request by TCEQ personnel.
- c. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a. through b.ii.

Litigation Information

Date Petition(s) Filed: N/A Date Answer(s) Filed: N/A SOAH Referral Date: N/A Hearing Date(s): N/A Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: David Carney, Enforcement Division,

Enforcement Team 5, MC 149, (512) 239-2583; Candy Garrett, Enforcement Division,

MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Melissa Keller, Comptroller, Gibson Real Estate, LLC, P.O. Box 200046,

San Antonio, Texas 78220

Bret Bartley, General Manager, Gibson Plumbing Company, 5511 Dietrich Road, San

Antonio, Texas 78219

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW) Policy Revision 2 (September 2002) PCW Revision October 30, 2008 Assigned 16-Sep-2013 Screening 10-Oct-2013 PCW 15-Oct-2013 **EPA Due** RESPONDENT/FACILITY INFORMATION Respondent Gibson Real Estate, LLC Reg. Ent. Ref. No. RN103732483 Facility/Site Region 13-San Antonio Major/Minor Source Minor CASE INFORMATION Enf./Case ID No. 47838 No. of Violations 1 Docket No. 2013-1945-PST-E Order Type 1660 Media Program(s) Petroleum Storage Tank Government/Non-Profit No Multi-Media Enf. Coordinator David Carney EC's Team Enforcement Team 5 Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000 Penalty Calculation Section TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$5,000 ADJUSTMENTS (+/-) TO SUBTOTAL 1 Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage Subtotals 2, 3, & 7 **Compliance History** 0.0% Enhancement \$0 Notes No adjustment for compliance history. Subtotal 4 Culpability No 0.0% Enhancement \$0 Notes The Respondent does not meet the culpability criteria. Good Faith Effort to Comply Total Adjustments Subtotal 5 \$0 **Economic Benefit** 0.0% Enhancement* Subtotal 6 \$0 Capped at the Total EB \$ Amount **Total EB Amounts** Approx. Cost of Compliance **SUM OF SUBTOTALS 1-7** Final Subtotal \$5,000 OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment \$497 Reduces or enhances the Final Subtotal by the indicated percentage. Enhancement to capture the avoided cost of compliance associated with Notes the violation. Final Penalty Amount \$5,497 Final Assessed Penalty STATUTORY LIMIT ADJUSTMENT \$5,497 Reduction Adjustment -\$1,099 Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.) Notes Deferral offered for expedited settlement.

\$4,398

PAYABLE PENALTY

Screening Date 10-Oct-2013

Docket No. 2013-1945-PST-E

Policy Revision 2 (September 2002) PCW Revision October 30, 2008

Respondent Gibson Real Estate, LLC

Case ID No. 47838

Reg. Ent. Reference No. RN103732483

Media [Statute] Petroleum Storage Tank

Enf. Coordinator David Carney

Component	ry Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)		0%
	Other written NOVs	0	0%
*	Any agreed final enforcement orders containing a denial of liability (<i>number of</i> orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Ple	ase Enter Yes or No)
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
- T	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
at Violator (Adjustment Per	centage (Sul	ototal 2)
No.		centage (Sul	ototal 3)
	ry Person Classification (Subtotal 7)	- •	
Unclass		centage (Sul	ototal 7)
	an District Control Co		,
oliance Histo	гу энннагу 		7
Compliance History Notes	No adjustment for compliance history.		
	Total Adjustment Percentage (S		-

Screening Date	10-Oct-2013	Docket	No. 2013-1945-PST-E	PCW
	Gibson Real Estate, LLC			Policy Revision 2 (September 2002)
Case ID No.	¥6			PCW Revision October 30, 2008
Reg. Ent. Reference No.	R			
Enf. Coordinator	Petroleum Storage Tank			
Violation Number				
Rule Cite(s)				
Kule Cite(s)	30 Tex. Admin.	. Code § 334.8(c)(4)((A)(vii) and (c)(5)(B)(ii)	
Violation Description	certificate by submitt certification form at leas	ing a properly comple	und storage tank ("UST") eted UST registration and expiration date. Specific eptember 30, 2009.	self-
,			Bas	e Penalty \$10,000
>> Environmental, Prope	rty and Human Healt	h Matrix		
	Harm			
OR Release	Company of the Compan	Minor		
Potentia			Percent 0%	
>>Programmatic Matrix Falsification	Major Moderate	Minor		
raisineacion	x x		Percent 10%	
Matrix Notes	100% of the ru	ule requirement was I	not met.	
Contract de la Contra				***************************************
			Adjustment	\$9,000
L.				\$1,000
Violation Events				
Violation Events				
Number of	Violation Events 5	147	Number of violation	days
	2230			The second secon
	daily weekly	=		etra de proposition
mant, ant, an	monthly			, , , , , , , , , , , , , , , , , , ,
mark only one with an x	quarterly		Violation Base	Penalty \$5,000
· ·	semiannual x	=		A CONTRACTOR OF THE CONTRACTOR
одините	single event			
	-			
Five annu	al events are recommended			to the
	October 1	10, 2013 screening da	ite.	
	-1- 0.00	₹ 3 .		\$0
Good Faith Efforts to Com	iply 0.09 Before NOV		ent Offer	\$0
NAME OF THE PROPERTY OF THE PR	Extraordinary			and the second s
izano esperante de la compansa del la compansa de la compansa del la compansa de	Ordinary			11.00
**************************************	N/A x	(mark with x)		1.0
	Notes The Respo	ondent does not meet for this viola	t the good faith criteria tion.	TO PERFORMANCE AND ADDRESS OF THE PERFORMANCE AND ADDRESS OF T
			Violation	Subtotal \$5,000
Economic Benefit (EB) for	this violation		Statutory Limit	Test
	ted EB Amount	\$502	Violation Final Pena	
Seminar	This vis	alation Final Acces	ed Penalty (adjusted fo	or limits) \$5,497
	ins vio	Judion i mai Maacaa	eu renaity (aujusteu it	n mmca)

Violation No.	47838 RN103732483 Petroleum Sto	3	andraganyaminen 2 5 5 4 4 4 5 5 6 5 6 6 6 6 6 6 6 6 6 6 6	anners againt the tree to the the tree to	CONTRACTOR STATE OF THE STATE OF	ata ang ang ang ang ang ang ang ang ang an	ON CONTRACTOR OF THE PROPERTY
g. Ent. Reference No. Media Violation No.	RN103732483 Petroleum Sto						
Media Violation No.	Petroleum Sto						
Violation No.		orage Tank					
	1	•				Percent Interest	Years of
						Percent Interest	Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs 1	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
						200 marks - 100 marks 120 mark	
Delayed Costs_							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	6			0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land [0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00			
Permit Costs					\$0	n/a	\$0
				0.00	\$0	n/a	\$0
Other (as needed)	\$100 Estimated cos	11-Sep-2013		0.00	\$0 \$4	n/a n/a	\$0 \$4
Notes for DELAYED costs	Estimated cos certification fo	st to renew a delivorm. The Date Re	ery certificate b quired is the re	0.00 0.83 y submil cord revi complia	\$0 \$4 tting a properly c lew date and the nce.	n/a n/a completed UST regis Final Date is the es	\$0 \$4 tration and self timated date of
Notes for DELAYED costs Avoided Costs	Estimated cos certification fo	st to renew a delivorm. The Date Re	ery certificate b quired is the re	0.00 0.83 y submil cord revi complia	\$0 \$4 tting a properly of lew date and the nce. gitem (except	n/a n/a completed UST regis Final Date is the es for one-time avoid	\$0 \$4 tration and self timated date of led costs)
Notes for DELAYED costs Avoided Costs Disposal	Estimated cos certification fo	st to renew a delivorm. The Date Re	ery certificate b quired is the re	0.00 0.83 y submit cord revi complia entering	\$0 \$4 tting a properly clew date and the nce. gitem (except to	n/a n/a ompleted UST regis Final Date is the es for one-time avoic \$0	\$0 \$4 tration and self timated date of led costs) \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel	Estimated cos certification fo	st to renew a delivorm. The Date Re	ery certificate b quired is the re	y submit cord revi complia entering	\$0 \$4 tting a properly of lew date and the nce. gitem (except 1 \$0 \$0	n/a n/a n/a completed UST regis Final Date is the es for one-time avoid \$0 \$0	\$0 \$4 tration and self timated date of ded costs) \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel pection/Reporting/Sampling	Estimated cos certification fo	st to renew a delivorm. The Date Re	ery certificate b quired is the re	y submit cord revi complia entering 0.00	\$0 \$4 tting a properly of lew date and the nce. 3 item (except \$0 \$0 \$0	n/a n/a completed UST regis Final Date is the es for one-time avoid \$0 \$0 \$0	\$0 \$4 tration and self timated date of led costs) \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment	Estimated cos certification fo	st to renew a delivorm. The Date Re	ery certificate b quired is the re	0.00 0.83 y submit cord revicemplia entering 0.00 0.00 0.00	\$0 \$4 tting a properly clew date and the nce. gitem (except \$0 \$0 \$0 \$0	n/a n/a completed UST regis Final Date is the es for one-time avoid \$0 \$0 \$0 \$0	\$0 \$4 tration and self timated date of led costs) \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel spection/Reporting/Sampling Supplies/equipment Financial Assurance [2]	Estimated cos certification fo	st to renew a delivorm. The Date Re	ery certificate b quired is the re	y submit cord revi complia entering 0.00 0.00 0.00 0.00	\$0 \$4 tting a properly clew date and the nce. gitem (except 1 \$0 \$0 \$0 \$0	n/a n/a n/a ompleted UST regis Final Date is the es for one-time avoid \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	\$0 \$4 tration and self timated date of sed costs) \$0 \$0 \$0 \$0
Notes for DELAYED costs Avoided Costs Disposal Personnel pection/Reporting/Sampling Supplies/equipment	Estimated cos certification fo	st to renew a delivorm. The Date Re	ery certificate b quired is the re- costs before (0.00 0.83 by submit cord revi complia entering 0.00 0.00 0.00 0.00 0.00 0.00	\$0 \$4 tting a properly of lew date and the nce. gitem (except \$0 \$0 \$0 \$0	n/a n/a completed UST regis Final Date is the es for one-time avoid \$0 \$0 \$0 \$0	\$0 \$4 tration and self timated date of led costs) \$0 \$0 \$0

Policy Revision 3 (So		alty (Calculati	on Works	heet (PC		ion August 3, 2011
DATES Assigned PCW	16-Sep-2013 15-Oct-2013	Screenir	g 10-Oct-20:	13 EPA Due			
RESPONDENT/FACILI Respondent Reg. Ent. Ref. No. Facility/Site Region	Gibson Real Estate RN103732483			Major/	Minor Source	Minor	
CASE INFORMATION Enf./Case ID No. Docket No. Media Program(s) Multi-Media Admin. Penalty \$ 1	2013-1945-PST-E Petroleum Storage	e Tank \$0	Maximum	Governme	of Violations Order Type nt/Non-Profit f. Coordinator EC's Team	1660 No	m 5
TOTAL BASE PENA	LTY (Sum of v			lation Secti	ion	Subtotal 1	\$5,750
ADJUSTMENTS (+							
Compliance Hi	story	ne lotal Ba		% Enhancement		tals 2, 3, & 7	\$0
Notes	1	No adjust	ment for comp	oliance history.			
Culpability	No		0,0	% Enhancement		Subtotal 4	\$0
Notes	The Res	pondent o	loes not meet	the culpability cri	iteria.		
Good Faith Eff	ort to Comply To	tal Adjus	tments			Subtotal 5	\$0
Economic Ben	efit Total EB Amounts Cost of Compliance	\$310 \$2,118		% Enhancement* pped at the Total EB	\$ Amount	Subtotal 6	\$0
SUM OF SUBTOTA	LS 1-7				,	inal Subtotal	\$5,750
OTHER FACTORS / Reduces or enhances the Fina				2.3%		Adjustment	\$135
Notes	Enhancement to				ssociated with		
					Final Per	nalty Amount	\$5,885
STATUTORY LIMIT	TADJUSTMEN'	Γ			Final Asse	ssed Penalty	\$5,885
DEFERRAL Reduces the Final Assessed Pe	nalty by the indicated i	oercentage.	(Enter number o	20.0% nlv: e.a. 20 for 20% i		Adjustment	-\$1,177
Notes				lited settlement.			

PAYABLE PENALTY

\$4,708

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

Screening Date 10-Oct-2013

Docket No. 2013-1945-PST-E

Respondent Gibson Real Estate, LLC

Case ID No. 47838

Reg. Ent. Reference No. RN103732483

Media [Statute] Petroleum Storage Tank

Enf. Coordinator David Carney

	ry Site Enhancement (Subtotal 2) Number of	Enter Number Hei	e Adjust
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
A	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Audits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Plea	se Enter Yes or N	0
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment Pero	entage (Su	btotal 2)
at Violator (No		entage (Su	btotal 3)
oliance Histo	pry Person Classification (Subtotal 7)		
Unclass		entage (Su	htotal 7)
	ory Summary	emaye (30	biolai 7)
Compliance History Notes	No adjustment for compliance history.		
•	Total Compliance History Adjustment Percentage (So	ubtotals 2,	3, & 7)
compliance l	listory Adjustment Final Adjustment Percenta		

Screening Date		Docket No. 2013-1945-PST-E	PCW
	Gibson Real Estate, LLC		Policy Revision 3 (September 2011)
Case ID No. Reg. Ent. Reference No.			PCW Revision August 3, 2011
	Petroleum Storage Tank		Service of the servic
Enf. Coordinator			damperependen
Violation Number	1		WARELAND
Rule Cite(s)	30 Tex. Admin. Code §	334.8(c)(5)(A)(i) and Tex. Water Code § 26.3	1467(a)
Violation Description	tank ("UST") delivery certi	o a common carrier a valid, current undergroun ificate before accepting delivery of a regulated y, one fuel delivery was accepted without a val certificate.	substance
		Bas	e Penalty \$25,000
>> Environmental, Proper	ty and Human Healt	h Matrix	100
Release	Harm Major Moderate	Minor	The state of the s
OR Actual		· · · · · · · · · · · · · · · · · · ·	***************************************
Potential		x Percent 3.0%	2.000
>>Programmatic Matrix		200	202101200000000000000000000000000000000
Falsification	Major Moderate	e Minor	T sa
		Percent 0.0%	sussection and the second seco
Matrix which would r		r could be exposed to insignificant amounts of rotective of human health or environmental re	
Notes		sult of the violation.	
Contract of the Contract of th			
	2000	Adjustment	\$24,250
www.manoooro			\$750
Violation Events			
Violation Events			
Number of '	Violation Events 1	1 Number of violation	days
voranti representa	daily		-
edycel Assaults	weekly		a appropriate to
mark only one	monthly		
with an x	quarterly semiannual	Violation Bas	e Penalty \$750
oosee	annual		
to substance of the sub	single event x		Average and the second
One sing	le event is recommended fo	or accepting one fuel delivery without a valid de	livery
		certificate.	
Good Faith Efforts to Com	o.0°	% Reduction	\$0
dood raith theits to com	Before NOV		
Octoor regulations	Extraordinary		
	Ordinary		
and a second	N/A <u>x</u>	(mark with x)	
THE PROPERTY OF THE PROPERTY O	Notes The Resp	ondent does not meet the good faith criteria for this violation.	
***	wayneep year or you consider the consideration and the considerati	Violation	Subtotal \$750
Economic Benefit (EB) for	r this violation	Statutory Limi	Test
Estimat	ted EB Amount	\$0 Violation Final Pen	alty Total \$768
- Anna Carlon Ca		olation Final Assessed Penalty (adjusted f	or limits) \$768
	1115 VI	remaily (aujusted i	5

RN103732483 Petroleum Sto 1			******************************	si en	Percent Interest	Years of Depreciation
Thom Cost	Data Bassifeed	Final Date	Ven	Total Care	5.0	15 EB Amount
		rinai vate	115	Tillerest Saveu	Offetime Costs	EB AIIIOUIIL
5			7 1			
	-					\$0
	∦					\$0
						\$0
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	4					\$0
						\$0 \$0
E	conomic benefit in	ncluded in Viola	tion No	. 1 of the Penalty	Policy Revision 2 PC	N.
S ANNUAL	IZE [1] avoided	costs before	enterir	ng item (except	for one-time avoid	led costs)
			0.00	\$0	\$0	\$0
			0.00	\$0	\$0	\$0
200700755000055000			0.00	\$0	\$0	\$0
				\$0	l \$0	\$0
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			0.00	\$0 \$0	\$0 \$0	\$0 \$0
			0.00	\$0	\$0	\$0
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Screening Date	10-Oct-2013	Docket	No. 2013-1945-PST-E		PCW
	Gibson Real Estate, LLC				n 3 (September 2011)
Case ID No.				PCW Re	vision August 3, 2011
Reg. Ent. Reference No.	Petroleum Storage Tank				Prizada (Adequ
Enf. Coordinator					of a parameter
Violation Number					- Caracina company
Rule Cite(s)	30 Tex. Admin. Code §		d (b)(2) and Tex. Water C	ode §	in Hilderica
		26.3475(a) and (c)(1)		1000
Violation Description	Falled to monitor the USTs (not to exceed 35 days be detection for the pressuriz the annual piping tightnes	tween each monitorion ed piping associated	ng). Also, failed to provid with the UST system. Sp	e release ecifically,	
,			Bas	e Penalty	\$25,000
>> Environmental, Proper	ty and Human Health	Matrix			na dakida taran mara
Release	Harm Major Moderate	Minor			i i ilmessaro.
OR Actual	And a contract of the contract				1000
Potential	X		Percent 15.0%		b party and a second
>>Programmatic Matrix					Of control for the second of t
Falsification	<u>Major Moderate</u>	Minor	D		Annaharities
	<u> </u>		Percent 0.0%		
Matrix Human health	or the environment will or c	ould be exposed to n	sollutants which would exc	eed levels	449
	rotective of human health or				set all and
					WHICH HAVE
			Adjustment	\$21,250	accet comboning
n de la companya de l					\$3,750
Violation Events					
		3 -			Personal market
Number of \	Violation Events 1	J	Number of violation	days	Anna con Anna
The state of the s	daily				a fine Accession
American	weekly				to consumment to
mark only one with an x	monthly x quarterly		Violation Base	e Penalty	\$3,750
Willi all X	semiannual			-	and the state of t
The second secon	annual single event				and or so the
-		===		1	es beneficierée
One month	ly event is recommended fro	\$645A.62649662996948776654A84556666656565656	25-10-10-10-10-10-10-10-10-10-10-10-10-10-	to the	eo un de sebuse de
	October 1	0, 2013 screening da	ite.		one and a second
Good Faith Efforts to Com	nly 0.0%	Reduction			\$0
	Before NOV	NOV to EDPRP/Settleme	ent Offer	_	
NOTIFICATION AND ADMINISTRATION	Extraordinary				standed in the
TO CONTRACTOR OF THE CONTRACTO	Ordinary X	(mark with x)			dynamica
reference agreement					BIPPROPRIES
	Notes	this violatio	the good faith criteria for on.		25 of 15 in 16 in 1
***************************************			Violation	Subtotal	\$3,750
Economic Benefit (EB) for	this violation		Statutory Limit	Test	
Estimat	ed EB Amount	\$266	Violation Final Pena	ity Total	\$3,838
ANA ANTONIO CONTRACTOR	This vio	olation Final Assess	sed Penalty (adjusted fo	or limits)	\$3,838
	100 Marie 100 Ma				

	E	conomic	Benefit	Wo	rksheet	A Section 1997	Age of the
Respondent	Gibson Real E	state, LLC		Total and the second of			CONTRACTOR OF STREET
Case ID No.	47838						
eg. Ent. Reference No.	RN103732483	3					
Media	Petroleum Sto	orage Tank				Percent Interest	Years of
Violation No.	2	•				Percent Interest	Depreciation
			2.0			5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$		100				
0-1							
Delayed Costs	r -			0.00	\$0	en I	¢0
Equipment Buildings				0.00	\$0 \$0	\$0 \$0	\$0 \$0
Other (as needed)		1		0.00	\$0	\$0 \$0	\$0
Engineering/construction				0.00	\$0	\$ 0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$1.500	9-Oct-2012	10-Jul-2014	1.75	\$131	n/a	\$131
Notes for DELAYED costs		the investigation	date and the Fi	nal Dal	te is the estimated	t the Facility. The Di date of compliance	ii.
Avoided Costs	ANNUAL	IZE [1] avoided	costs before	***************************************		for one-time avoid	
Disposal Personnel		4		0.00	\$0 \$0	\$0 \$0	\$0 \$0
pection/Reporting/Sampling		+		0.00	\$0 \$0	\$0 \$0	\$0 \$0
Supplies/equipment	-			0.00	\$0	\$0 \$0	\$0 \$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$118	9-Oct-2011	11-Sep-2013	2.84	\$17	\$118	\$135
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs	Balacas (Control Service 2005) 5			150,000,000,000		ector tests. The Da the record review d	
	on	ie year prior to uit	a mvesugation c	iate air	a die Filiai Date is	the record review d	acc.

Screening Date	VX	Docket	No. 2013-1945-PST-E	PCW
	t Gibson Real Estate, LLC			Policy Revision 3 (September 2011)
Case ID No Reg. Ent. Reference No	W			PCW Revision August 3, 2011
	Petroleum Storage Tank			,
Enf. Coordinato	David Carney			4 de 20 de 2
Violation Numbe Rule Cite(s	\			
Kale Cite(s	30	Tex. Admin. Code § 33	34.10(b)(1)(B)	
Violation Description	Failed to maintain UST re	cords and make them	immediately available for	inspection
Violation Description	"	upon request by TCEQ	personnel.	
THE CONTRACTOR OF THE CONTRACT			Res	e Penalty \$25,000
			bas	### \$23,000
>> Environmental, Prope	rty and Human Heal: Harm	th Matrix		
Releas	e Major Moderat	e Minor		20.00
OR Actual Potentia			Percent 0.0%	
	71 <u>1</u>		reicent 0.0%	
>>Programmatic Matrix	Major Madarak	Minor		Account of the second
Falsification	Major Moderat	e Minor	Percent 5.0%	
***************************************			•	'
Matrix	100% of the	rule requirement was	not met	
Notes	20070 01 010	raic requirement nas	not met.	
			Adjustment	\$23,750
			Adjustment_	
				\$1,250
Violation Events				
Number of	Violation Events 1		Number of violation	davs
executive relations	daily weekly			To a supplication of the s
mark only one	monthly			
with an x	quarterly semiannual		Violation Bas	e Penalty \$1,250
on the second se	annual			***************************************
	single event x			
			*	
	One sin	gle event is recommend	ded.	
Good Faith Efforts to Con	nply 0.0	Reduction NOV to EDPRP/Settleme	ant Offer	\$0
94-91-91	Extraordinary Entra	NOV to EDFRF/Settleffic	ant one	COCCUTATION
	Ordinary			v areas and a second a second and a second a
TO A	N/A <u> x</u>	(mark with x)	1	
504	Notes The Resp		the good faith criteria for	1000
	<u> </u>	this violation	UII.	
			Violation	Subtotal \$1,250
r			Chabalana 12ma	
Economic Benefit (EB) fo	r this violation		Statutory Limit	. rest
Estima	ted EB Amount	\$44	Violation Final Pen	alty Total \$1,279
	This	violation Final Asses	sed Penalty (adjusted f	or limits) \$1,279

	E	conomic	Benefit	Wo	rksheet		
Respondent	Gibson Real Es	state, LLC			A STATE OF THE PARTY OF THE PAR		
Case ID No.	47838						
ea. Ent. Reference No.	RN103732483						
Media	Petroleum Sto	rage Tank				Percent Interest	Years of
Violation No.	Š.					Percent Interest	Depreciation
						5.0	15
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or \$						
Delaved Costs							
Equipment		ı ı		0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	9-Oct-2012	10-Jul-2014	1.75	\$44	n/a	\$44
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0
Notes for DELAYED costs	, , ,			of comp	oliance.	e Final Date is the e for one-time avoid	
Avoided Costs	ANNUAL	TYC [1] avoided	costs before	0.00	\$0	\$0	\$0
Disposal Personnel				0.00	\$0 \$0	\$0 \$0	\$0 \$0
nspection/Reporting/Sampling		-		0.00	\$0	\$0 \$0	\$0
Supplies/equipment		1		0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Notes for AVOIDED costs							
Approx. Cost of Compliance		\$500			TOTAL		\$44

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



Compliance History Report

PENDING Compliance History Report for CN603556796, RN103732483, Rating Year 2013 which includes Compliance History (CH) components from September 1, 2008, through August 31, 2013.

	stomer, Respondent, or ner/Operator:	CN603556796, Gibson Real	Estate, LLC	Classification: ∪	NCLASSIFIED	Rating	
Reg	gulated Entity:	RN103732483, Gibson Plum	bing	Classification: ∪	NCLASSIFIED	Rating	
Cor	mplexity Points:	2		Repeat Violator:	NO		
СН	Group:	09 - Construction					
Loc	cation:	5511 DIETRICH ROAD, SAN	ANTONIO, TEXAS	78219-2902, BEXAR	COUNTY		
TCI	EQ Region:	REGION 13 - SAN ANTONIO					
	Number(s): FROLEUM STORAGE TANK	REGISTRATION 19796					
Cor	mpliance History Period	d: September 01, 2008 to	August 31, 2013	Rating Year:	2013 Rat	ing Date:	09/01/2013
Da	te Compliance History I	Report Prepared: S	eptember 17, 201	.3			
Age	ency Decision Requiring	g Compliance History:	Enforcement	· · · · · · · · · · · · · · · · · · ·			
Coi	mponent Period Selecte	ed: September 17, 2008	3 to September 17	7 , 2013	,		
TC	EQ Staff Member to Cor	ntact for Additional Info	ormation Rega	rding This Compli	ance History.		
	Name: David Carney			Phone: (512) 239-2583		
1) H 2) H 3) I 4) I owr		e and/or operation for the full ange in ownership/operator o rent owner/operator? the prior			YES NO		
Co	ur? mponents (Multimed	lia) for the Site Are L	isted in Sect	ions A - J			
	N/A	dgments, and consent d	lecrees:				
B.	Criminal convictions: N/A						
C.	Chronic excessive emi	issions events:					
D.	The approval dates of N/A	investigations (CCEDS	Inv. Track. No	o.):			

F. Environmental audits:

N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated

entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- **G.** Type of environmental management systems (EMSs): N/A
- H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
GIBSON REAL ESTATE, LLC	§	
RN103732483	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2013-1945-PST-E

I. JURISDICTION AND STIPULATIONS

On	, the Texas Commission on Environmental Quality ("the
Commission" or	"TCEQ") considered this agreement of the parties, resolving an enforcement
action regarding	Gibson Real Estate, LLC ("Respondent") under the authority of TEX. WATER
CODE chs. 7 and	26. The Executive Director of the TCEQ, through the Enforcement Division,
and the Responde	ent together stipulate that:

- 1. The Respondent owns and operates a fleet refueling facility at 5511 Dietrich Road in San Antonio, Bexar County, Texas (the "Facility").
- 2. The Respondent's two underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission.
- 3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 16, 2013.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Eleven Thousand Three Hundred Eighty-Two Dollars (\$11,382) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Nine Thousand One Hundred Six Dollars (\$9,106) of the administrative penalty and Two Thousand Two Hundred Seventy-

Six Dollars (\$2,276) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 Tex. ADMIN. CODE § 70.10(a).
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

- 1. Failed to renew a previously issued UST delivery certificate by submitting a properly completed UST registration and self-certification form at least 30 days before the expiration date, in violation of 30 Tex. ADMIN. CODE § 334.8(c)(4)(A)(vii) and (c)(5)(B)(ii), as documented during an investigation conducted on October 9, 2012 and a record review conducted on September 11, 2013. Specifically, the delivery certificate expired on September 30, 2009.
- 2. Failed to make available to a common carrier a valid, current UST delivery certificate before accepting delivery of a regulated substance into the USTs, in violation of 30 Tex. ADMIN. Code § 334.8(c)(5)(A)(i) and Tex. Water Code § 26.3467(a), as documented during an investigation conducted on October 9, 2012 and a record review conducted on September 11, 2013. Specifically, one fuel delivery was accepted without a valid delivery certificate.
- 3. Failed to monitor the USTs for releases at a frequency of at least once every month (not to exceed 35 days between each monitoring), in violation of 30 Tex. ADMIN. CODE § 334.50(b)(1)(A) and Tex. Water Code § 26.3475(c)(1), as documented during an investigation conducted on October 9, 2012 and a record review conducted on September 11, 2013.

Gibson Real Estate, LLC DOCKET NO. 2013-1945-PST-E Page 3

- 4. Failed to provide release detection for the pressurized piping associated with the UST system, in violation of 30 Tex. Admin. Code § 334.50(b)(2) and Tex. Water Code § 26.3475(a), as documented during an investigation conducted on October 9, 2012 and a record review conducted on September 11, 2013. Specifically, the annual piping tightness and line leak detector tests had not been conducted.
- 5. Failed to maintain UST records and make them immediately available for inspection upon request by TCEQ personnel, in violation of 30 Tex. ADMIN. CODE § 334.10(b)(1)(B), as documented during an investigation conducted on October 9, 2012 and a record review conducted on September 11, 2013.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Gibson Real Estate, LLC, Docket No. 2013-1945-PST-E" to:

Financial Administration Division, Revenue Operations Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, cease accepting fuel until such time as a valid delivery certificate is obtained from the TCEQ by submitting a properly completed UST registration and self-certification form, in accordance with 30 Tex. Admin. Code § 334.8 to:

Petroleum Storage Tank Registration Team, MC 138 Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

- b. Within 30 days after the effective date of this Agreed Order:
 - i. Implement a release detection method for the USTs and the piping associated with the UST system at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.50; and
 - ii. Begin maintaining UST records and make them immediately available for inspection upon request by TCEQ personnel, in accordance with 30 TEX. ADMIN. CODE § 334.10.
- c. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.b.ii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team Enforcement Division, MC 149A Texas Commission on Environmental Quality P.O. Box 13087 Austin, Texas 78711-3087

with a copy to:

Waste Section Manager San Antonio Regional Office Texas Commission on Environmental Quality 14250 Judson Road San Antonio, Texas 78233-4480

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent

Gibson Real Estate, LLC DOCKET NO. 2013-1945-PST-E Page 5

shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- This Agreed Order may be executed in separate and multiple counterparts, which 7. together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
- 8. Under 30 Tex. Admin. Code § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	
For the Executive Director	2/24/14 Date
agree to the attached Agreed Order on be do agree to the terms and conditions spec	stand the attached Agreed Order. I am authorized to ehalf of the entity indicated below my signature, and I cified therein. I further acknowledge that the TCEQ, in t, is materially relying on such representation.
 and/or failure to timely pay the penalty are A negative impact on compliance here Greater scrutiny of any permit apperent additional penalties, and/or attorned Increased penalties in any future error Automatic referral to the Attorned and TCEQ seeking other relief as author 	nistory; olications submitted; rney General's Office for contempt, injunctive relief, ney fees, or to a collection agency; enforcement actions; ey General's Office of any future enforcement actions;
Signature Signature Name (Printed or typed) Authorized Representative of Gibson Real Estate, LLC	Date General Manager Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.